

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

CHRISTINA LOPEZ,	:	
	:	
Plaintiff	:	CIVIL ACTION NO. 4:22-521
	:	
v.	:	(JUDGE MANNION)
	:	
KILOLO KIJAKAZI,	:	
Acting Commissioner of	:	
Social Security,	:	
	:	
Defendant	:	

ORDER

Pending before the court is the report of United States Magistrate Judge William I. Arbuckle, which recommends that the decision of the Commissioner of Social Security denying the plaintiff's claim for disability insurance benefits ("DIB") and supplemental security income ("SSI") under Titles II and XVI of the Social Security Act ("Act") be remanded to the Commissioner for further consideration and judgment be entered in favor of the plaintiff on her appeal. (Doc. 16). No objections have been filed to the report and recommendation.

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation."

Fed.R.Civ.P. 72(b), advisory committee notes; see also Univac Dental Co. v. Dentsply Intern., Inc., 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

In considering the plaintiff's appeal, Judge Arbuckle found that substantial evidence does not support the ALJ's symptom evaluation. Specifically, Judge Arbuckle found meritorious the plaintiff's argument that the ALJ mischaracterized the nature of her treatment, and the type, dosage and effectiveness of her medications. Judge Arbuckle found that the ALJ failed to explain the basis for his conclusion that the plaintiff's mental health treatment was only "conservative" when the plaintiff treated with a psychologist monthly and was on numerous medications prescribed by a treating psychiatrist. Moreover, Judge Arbuckle found that missing from the ALJ's evaluation was any discussion about the plaintiff's complete compliance with prescribed treatment, which required frequent attempts to control the plaintiff's symptoms through the changing of medications and

dosages of medications. Without discussing the complete picture of the attempts to treat the plaintiff's symptoms, Judge Arbuckle found that the ALJ determined that the plaintiff's symptoms were not entirely consistent with the medical and other evidence of record. Because the ALJ's analysis of the plaintiff's mental health-related limitations is not sufficiently explained to permit meaningful review, Judge Arbuckle recommends remand of the instant action.

As indicated, neither party has filed objections to Judge Arbuckle's report and recommendation. Upon review of the report and recommendation, the court finds no clear error of record. Moreover, the court agrees with the sound reasoning which led Judge Arbuckle to his conclusions. As such, the court will adopt the report and recommendation in its entirety.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

(1) The report and recommendation of Judge Arbuckle (**Doc. 16**)

is **ADOPTED IN ITS ENTIRETY** as the decision of the court.

(2) The plaintiff's appeal of the decision of the Commissioner of Social Security is **GRANTED**.

(3) The decision of the Commissioner of Social Security denying the plaintiff's claims for DIB and SSI benefits under the Act is **VACATED** and the instant action is **REMANDED** to the

Commissioner for further consideration pursuant to sentence
four of 42 U.S.C. §405(g).

(4) JUDGMENT IS ENTERED in favor of the plaintiff.

(5) The Clerk of Court is directed to CLOSE THIS CASE.

s/ Malachy E. Mannion

MALACHY E. MANNION

United States District Judge

DATE: August 30, 2023

22-521-01